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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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0805

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

NOTICE OF ALLOWABILITY

*the* ~~claims~~ being allowable, PROSECUTION ON THE MERITS IS ~~(CLOSED)~~ CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to Papers filed June 1, 2004

☒ The allowed claim(s) is claim 1 (the claim)

☒ The drawings filed on 12/5/01 and 6/1/04 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Notice of Draftperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☐ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☐ Examiner's Statement of Reasons for Allowance

HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 2662

10/016068  
PTOL-37 (Rev. 10/95)

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The changes below are made for the purpose of clarification of the information presented and deletion of some redundant information.

### **IN THE SPECIFICATION**

Page 1, line number 17, the recitation "onto the root stock of 'Dr. Huey' " has been deleted.

Page 2, the first 5 lines have been replaced by the following:

#### **--BRIEF DESCRIPTION OF THE ILLUSTRATIONS**

The accompanying illustrations show typical specimens of the flowers and foliage of the new variety depicted in color as nearly true as it is reasonably possible to make same in color illustrations of this character. Fig. 1 shows a bud with flowering stem; portions of a flowering stem and main stem, foliage, bloom in early stages of opening, and reproductive organs. Fig. 2 shows foliage, bud with a portion of the flowering stem, a portion of a main stem, foliage with stipules, reproductive organs, and the bloom.--

Page 2, line number 29, "5" has been changed to --3--, as a three-leaflet leaf is illustrated.

On the third line of page 4, the language "Resistance to Disease: Average" has been deleted.

Page 4, line number 10, the recitation "the usual" has been changed to --an average--.

Page 6, line numbers 21-22 have been amended to read as follows:

Arrangement of Stamens,  
Filaments and Anthers:

Regularly arranged around  
styles

2. Contrary to the comments brought forth by applicant in the papers filed June 1, 2004, there was no outstanding request for a replacement sheet of photographic illustrations or objection to the photographic illustration previously of record. As the photographic illustration previously of record and that filed on June 1, 2004 were complementary to each other in some respects, and as both of same have been found per se acceptable, both of same have been maintained of record and will be printed. The specification has been correspondingly amended (see above) to account for the fact that there are now two sheets of photographic illustrations of record, with the earlier filed sheet being designated as Fig. 1 and the latter as Fig. 2.

2. Any inquiry concerning this communication from the examiner should be directed to Examiner Howard J. Locker whose telephone number is 571-272-0980, and whose normal work hours are Monday through Thursday, from 6:00 a.m. to 4:30 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Andrew Wang, can be reached at 571-272-0811.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 1600 receptionist whose telephone number is 571-272-1600.

### **TELECOPY/FACSIMILE TRANSMISSION**

Papers related to this application may be submitted to TC 1600 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The official fax number for TC 1600 is: 703-872-9306.

Howard J. Locker/hjl  
August 05, 2004

  
HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 1661